Remembering Douglas Johnston as a Practicing Diplomat as well as a Scholar

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Brian Flemming and the other colleagues paying tribute to Douglas as a scholar and teacher in this volume have done a marvellous job describing the immense breadth and depth of Douglas’ scholarship. Douglas was not known as an organization man, but I write to pay tribute to his skills as a meticulous practical diplomat in putting to use his skills as a scholar and organizer in events that followed the Third United Nations Conference on the Law of the Sea (UNCLOS III) between 1990 and 1994. The stakes were high, since they involved working out issues related to high seas fisheries which had not been settled before the conclusion of UNCLOS III. However, the nature of the settlement, had it been injudicious, would have threatened the stability of the 1982 United Nations Convention on the Law of the Sea (LOS Convention). The issues to which I refer included the question of straddling stocks (or stocks which straddled the boundary between the outer limits of the exclusive economic zone (EEZ) and the high seas); the use of high seas pelagic driftnets, particularly by Japan, Taiwan, and Korea; the question of enforcement on the high seas on fishing vessels by States other than the flag States; and the existing and proposed organizational arrangements for the conduct of high seas fisheries. These were matters then of extraordinary sensitivity.

By way of background, I should say that my involvement in this case with Douglas was precipitated by a paper I had published with a colleague, Professor William Burke, in 1989 on the issue of actions contemplated by coastal States in the North Pacific against foreign flag States employing

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high seas pelagic driftnets. Since these coastal States involved both the United States and the Soviet Union, Burke and I warned the principals about the potential examples that would be set and the consequences that could ensue which would be prejudicial to their larger interests in the stability of the LOS Convention. This paper had generated a great deal of interest, and I had been called by the foreign policy establishments of many governments to discuss over the telephone the points Burke and I had made in that publication. Not surprisingly to me, one of the governments in question was Canada, which was then facing a rather intense straddling stocks conflict with European States in the Northwest Atlantic.

Out of this cauldron there came one day a call from Douglas.

I should say at this point that Douglas and I had formed a firm friendship in 1969 at the Third Annual Conference of the Law of the Sea Institute at the University of Rhode Island. I was very excited to meet him because I had read with pleasure and profit his book on the *International Law of Fisheries* which had been published by Yale University Press in 1965 and republished in 1987. At that time we had a long discussion about the functional approach to international law and I have been amused to see that he published much later an article under the same title. In any event, to return to the call from Douglas, he said that the Canadian government was willing to sponsor a “back channel” meeting between the principals involved in negotiating arrangements to solve the difficult high seas fisheries issues which were being discussed officially both in the North Pacific, in the United Nations, and in the United Nations Food and Agriculture Organization (FAO). The principals included Canada, the United States, Japan, Korea, the Soviet Union, Taiwan, and Poland. The Canadian government wanted such a meeting to be hosted by the Centre for Asia-Pacific Initiatives (CAPI) and Douglas and I should be

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